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RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

BEFORE THE

TRANSPORTATION, TOURISM AND HAZARDOUS MATERIALS SUBCOMMITTEE

OF THE

HOUSE COMMITTEE ON ENERGY AND COMMERCE

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I am pleased to be here today to discuss DOT's view of the roles and responsibilities of Federal and state government in the transportation of hazardous materials.

For FY 87, the Research and Special Programs Administration (RSPA) asked for and received both a dollar increase and a staffing increase. For FY 88, we are again asking for budget and staffing increases. We are requesting an increase of $1.5 million and seven staff which will allow RSPA to address important recommendations contained in the Secretary's Safety Task Force Report on our hazardous materials program and the Office of Technology Assessment's Report. In addition, the funding increase will allow RSPA to improve the Federal/state relationship established for assisting states in developing hazardous materials enforcement and planning for emergency response.

We have also proposed to Congress important legislative changes in the Hazardous Materials Transportation Act of 1974 (HMTA) which will assist us in improving the management of our safety program and clarify Federal/state roles. This will be the first major legislative change in hazardous materials transportation in over 10 years. The Department's legislative proposal is briefly described in the body of this statement, and I welcome this opportunity to answer your questions regarding the proposal.

The HMTA provides the primary legislative authority for assuring the safe transportation of hazardous materials by all modes of transportation. Generally, the Secretary's authority under the Act has been delegated to RSPA. The only exception is enforcement of the rules which is shared by all the modes of transportation and coordinated by RSPA. To meet this responsibility, RSPA conducts a multi-faceted regulatory program that consists of six interrelated parts:

- o develop, promulgate and maintain regulations governing all aspects of hazardous materials transportation;
- o provide for and coordinate enforcement of the regulations to assure industry-wide compliance;
- o train those charged with enforcing the regulations; (at the state and Federal level)

- o conduct research and collect, analyze and disseminate data and other information related to hazardous materials transportation;
- o interact with constituency groups concerned with hazardous materials transportation safety; and
- o provide assistance in cooperation with FEMA and EPA to those who must respond to hazardous materials transportation accidents.

I will address each of these program parts.

Regulatory Program

The RSPA develops and issues regulations governing hazardous materials transportation by all modes (excluding bulk transportation by vessel, standards for which are developed by the U.S. Coast Guard). The Federal regulations cover classification (e.g. flammable, corrosive, poisonous); hazard communication, including preparation of shipping papers, package marking and labeling, and vehicle placarding; packaging requirements for containers authorized for the shipment of hazardous materials; and loading and handling procedures for shippers and carriers. The regulations apply to air, rail, vessel and highway transport. We also have responsibility for assuring consistency of the regulations within the international community.

The following areas are being examined to improve the regulations pertaining to the transportation of hazardous materials with the objectives of enhancing safety, improving enforcement, simplifying the interpretation and implementation of the regulations, promoting uniformity and consistency, and minimizing the regulatory burden on commerce.

- o Performance-Oriented Standards--RSPA has completed a Notice of Proposed Rulemaking (NPRM) on performance-oriented packaging standards which will significantly reduce the volume of the Hazardous Materials Regulations and bring them into alignment with international standards. Performance-oriented standards are expected to promote flexibility and technological advances in packaging, improve safety by relating packaging performance to the transportation environment, and reduce the industry and government burden inherent in the regulatory exemption process. The NPRM was published in the Federal Register on May 5, 1987 and will be republished in early November 1987 with public hearings scheduled for November 17 and 18, 1987. The period for public comment will close on February 26, 1988.

- o Cargo Tank Safety--A Notice of Proposed Rulemaking (NPRM) for cargo tank safety was issued in 1985.

Primary elements of the NPRM address the manufacture, operation, maintenance, repair and requalification of the existing 100,000 Department of Transportation (DOT) specification cargo tanks. DOT has received many more comments and counter-proposals than expected, and this has lengthened the evaluation process. During March and April 1987, DOT held a series of public working meetings with these commentors to clarify their comments and discuss the alternative proposals.

As a result of these meetings, certain revisions to the proposed standards are being developed for consideration by DOT. RSPA expects to complete a draft of the final rule in June 1988.

o Training of Hazardous Materials Handlers and Shippers--RSPA is developing an Advance Notice of Proposed Rulemaking (ANPRM) which examines additional training requirements for persons involved in the transportation of hazardous materials. Although such requirements presently exist in the Hazardous Materials Regulations, the ANPRM will examine training requirements which are more detailed and broader in scope than the current training requirements. RSPA expects to publish this ANPRM

this fall.

- Driver Licensing of Hazardous Materials Drivers--RSPA has worked with the Federal Highway Administration (FHWA), to develop a rulemaking concerning minimum Federal standards for testing and licensing commercial vehicle operators. The primary provision limiting commercial operators to no more than one driver's license became effective on July 1, 1987. The FHWA regulations also cover such areas as violation notification requirements and employer responsibilities. Future regulations will cover testing of operators, including special testing requirements for drivers who will be hauling hazardous materials. Such drivers would be tested concerning regulations under the HMTA and would be required to have a working knowledge of those regulations. They would also be required to demonstrate knowledge of proper handling of hazardous materials, operation of emergency equipment, and implementation of emergency response procedures. The Secretary will establish the minimum Federal testing standards by July 15, 1988. The FHWA will issue an NPRM with the minimum standards this fall and a final rule in the summer of 1988.

- Emergency Response Information--RSPA published an NPRM in August proposing adoption of new communication standards to improve the information available to an emergency responder at the time of an accident. These new standards would require that vehicles and facilities involved in hazardous materials transportation contain a copy of DOT's Emergency Response Guidebook, that all hazardous materials shipping papers contain a 24-hour emergency response telephone number and that all n.o.s. ("not otherwise specified") descriptions of materials on shipping papers also show the technical name of the material in parentheses. We expect to issue a final rule by Spring 1988.

- Application of Federal Rules to Intrastate Motor Carriers--We currently apply the hazardous materials regulations to intrastate motor carrier operations activities only in the transportation of hazardous wastes, hazardous substances, and flammable cryogenic liquids. An Advance Notice of Proposed Rulemaking (ANPRM) was published in June 1987, proposing to regulate all hazardous materials transportation by motor carriers. The majority of the affected operators are small businesses involved in private motor carrier operations; e.g., a small

petroleum distributor servicing communities within one state.

Hazardous Materials Routing

I would like to describe our views on routing and the appropriate roles of the various levels of government. The Hazardous Materials Transportation Act (HMTA) provides DOT with broad regulatory authority "to protect the Nation adequately against the risks inherent in the transportation of hazardous materials in commerce." Our authority encompasses the promulgation of routing restrictions, where appropriate, and under this authority we have issued routing regulations which apply to the highway transportation of radioactive materials. In addition, DOT has general regulations for the highway routing of hazardous materials which require a motor vehicle containing hazardous materials to be operated over routes which do not go through or near heavily populated areas, places where crowds are assembled, tunnels, narrow streets, or alleys, and to avoid unnecessary delays unless there is no practicable alternative. In 1980 the Department developed criteria, and guidelines for applying these criteria, to designate routes for transporting hazardous materials. The guidelines contain a detailed yet simple step-by-step methodology for the assessment of risk and the designation of routes, and provide a systematic process whereby state and local governments can objectively assess the relative risks associated with alternative routes. We have distributed 3000 copies of these guidelines to state and local governments and encourage their use.

In addition to the general routing regulations, the Department has a general routing rule for all placarded radioactive materials and a specific routing rule for highway route-controlled quantity shipments of radioactive materials such as spent nuclear fuel (49 CFR 177.825). These regulations require that highway route-controlled quantity radioactive materials be transported either over Interstate System highways (using Interstate System beltways or bypasses where available) or over state-designated alternative routes. Interstate System highways were selected to reduce time in transit and, based on highway safety accident data, also to substantially reduce the probability of accidents. Both the general and specific routing rules for radioactive materials transportation have risk minimization as their basic goal.

Further, RSPA intends to consider issuance of a highway routing rule for hazardous materials transportation. In developing proposals for this rule, we would draw heavily on the concepts we have developed under our inconsistency ruling process. Of primary significance are two fundamental concepts: in determining route designations, state and local governments must perform a safety analysis, which considers overall risk (not just the risks in the designating jurisdiction), and must utilize a process which provides affected neighboring jurisdictions an opportunity to participate in the routing decision. Because we believe strongly in these two concepts, we have proposed to include them in our legislative proposals on highway routing.

Our policy with respect to the assessment and designation of routes for hazardous materials transportation is that this is primarily a state responsibility. State and local governments are in the best position to know and evaluate particular local conditions which affect the risks associated with each route. We encourage states and local communities to cooperate with affected adjacent jurisdictions in designating hazardous materials routes based upon local conditions, Federal regulations (e.g., 49 CFR Sections 177.825 and 397.9) and Federal guidelines.

We have offered Federal assistance to states through issuance of planning guides and we have requested money in our FY 1988 budget to do highway flow analyses.

Preemption

In adopting the HMTA one of Congress' primary goals was preventing a patchwork of state and local requirements that could operate to frustrate the national framework intended by the Act. Congress expressed this goal in the Act by declaring that, as a matter of law, any state or local requirement that is "inconsistent" with the Act, or the Hazardous Materials Regulations adopted under it, is preempted.

In the absence of a statutory declaration of what constitutes an inconsistent requirement, the Department adopted an administrative process for the development and issuance of advisory opinions--"inconsistency rulings"--for case-by-case determinations of whether challenged state and local requirements are valid. By regulation, our policy is that state or local requirements should be preempted only when (1) they directly conflict with Federal requirements, that is, when compliance with one leads to a violation of the other; or (2) application and enforcement of the state or local requirement present an obstacle to the accomplishment of the purposes of Federal law and regulation.

This body of administrative law, as established in the 21 inconsistency rulings issued to date, has delineated those areas of exclusive Federal jurisdiction: package manufacturing; hazard communication, particularly shipping papers, markings, labeling and placarding; hazard classification; and written notification of incidents. Other subjects of state and local regulation, such as routing, prenotification, permits, and escorts, have in certain cases been upheld under the Department's standard.

The Department believes that, based on the 12 years of experience gained in administering the Act and the inconsistency ruling process, it is now appropriate to codify in the Act what we have learned and what we have determined is the appropriate assignment of roles between state and local governments and the Department in the area of

hazardous materials transportation. In our proposed reauthorization of the Act, which has been forwarded to Congress, we have, in effect, proposed three areas of regulatory jurisdiction. The first area consists of those subjects (noted above) that should be within the exclusive jurisdiction of the Federal Government, with the exception that state and local governments could adopt and enforce identical requirements. The second jurisdictional area includes those subjects, not specifically identified as exclusively Federal, that would continue to be evaluated under the Department's inconsistency standard. And the third area involves highway routing, which would be recognized as subject to the concurrent jurisdiction of the Federal Government and state and local governments. Under this concurrent jurisdiction, the Department would establish the standards under which states and local governments could make route designations, and would provide a dispute resolution process to arbitrate disagreements between states over routing decisions.

Other Initiatives

In 1988, RSPA expects to publish proposals concerning explosives, incident reporting, registration and acetylene cylinders. RSPA also has ongoing projects to rewrite and update existing rules on high pressure cylinders and the carriage of hazardous materials by motor vehicle.

RSPA also represents the Department in several international forums

that develop international standards for the transportation of hazardous materials. Application of international standards by governments throughout the world has a direct economic impact on U.S hazardous materials shippers and carriers involved in export trade. The various international organizations in which RSPA participates are as follows: The United Nations Committee of Experts on the Transport of Dangerous Goods; The International Maritime Organization Committee on the Carriage of Dangerous Goods; The Dangerous Goods Panel of the International Civil Aviation Organization; The Group of Experts on the Transport of Dangerous Goods Committee of the Economic Commission for Europe Inland Transport; and The International Atomic Energy Agency.

We consider our involvement in these international forums important because the United States has been able to maintain a positive trade balance in hazardous materials, even when burdened with the costs of multiple regulatory systems. In 1985, the chemical industry alone accounted for a trade surplus of more than seven billion dollars.

RSPA's continuing objective is to ensure that the standards adopted by these international bodies provide satisfactory levels of safety and do not create artificial trade barriers to the U.S. hazardous materials industry.

Enforcement Program

Under the delegations of authority from the Secretary each modal administration (i.e., the Federal Highway Administration, the Federal Railroad Administration, the Federal Aviation Administration and the U.S. Coast Guard) is responsible for enforcement of the hazardous materials regulations applicable to the mode of transportation it oversees. RSPA is specifically responsible for the enforcement of regulations applicable to the multimodal transportation of hazardous materials and the manufacture, reconditioning, and retesting of most DOT specification containers. RSPA is also responsible for coordination with the modal administrations. Within the Department, there is a cadre of over 1,000 full- and part-time inspectors. In 1985, this equated to 273 total work years distributed as follows: the Federal Highway Administration spent 24.40 work years; the Federal Aviation Administration spent 14.6 work years; the Federal Railroad Administration spent 48.5 work years; the U.S. Coast Guard spent 178 work years; and RSPA spent 7.5 work years on hazardous materials enforcement. In addition to this Federal effort, the Department has worked closely with and supported annual funding for state enforcement, particularly motor carrier enforcement.

Within the United States, trucks carry the most substantial proportion of the approximately 250,000 shipments of hazardous materials made every day. To address the regulatory compliance of such a vast number of shipments requires more than an exclusively Federal enforcement effort. A Federal/state enforcement partnership is an essential part of the Federal regulatory program. RSPA has

worked to develop our partnership with the states through the Cooperative State Hazardous Materials Enforcement Development (COHMED) Program. This program continues the efforts of the successful State Hazardous Materials Enforcement Development (SHMED) Program carried out by RSPA and authorized by Congress in Fiscal Years 1983, 1984 and 1985.

SHMED was a pilot program designed to provide technical and financial assistance to states to develop and implement a hazardous materials enforcement program. The objective was to encourage states to take a more active role in the enforcement of the Hazardous Materials Regulations through adoption of Federal standards or the development of comparable regulations. It enabled the 25 participating states to develop enforcement capabilities within existing public agencies, thereby vastly increasing total resources devoted to enforcing the hazardous materials transportation standards nationally.

RSPA's program was boosted by Congressional passage of the Surface Transportation Assistance Act of 1984. Section 402 of that Act created a new grant-in-aid program for motor carrier safety (including hazardous materials) enforcement. RSPA assists FHWA in the review of the Motor Carrier Safety Assistance Program (MCSAP) grant applications to ensure that effective hazardous materials transportation programs are established.

To assist us in that effort and to ensure better communication and

coordination between ourselves and among the states, RSPA sponsors the COHMED, which provides a forum for the Federal and state people responsible for hazardous materials transportation to share information regarding regulations, training, enforcement, and research which will assure a better regulatory scheme and greater uniformity. As a result of this forum, we have adopted (or taken steps to adopt) a number of the states' recommendations, including establishment of procedures to provide for the uniform interpretation of the Hazardous Materials Transportation Act and the hazardous materials regulations; development of a "menu-driven" program to enable states to access the Department's exemptions data base; and development of a Hazardous Materials Modular Inspection/Enforcement Training Proposal.

We also have initiated a series of regional workshops focused on radioactive materials transportation issues. These workshops were implemented by RSPA with the cooperation of the Department of Energy (DOE), the Nuclear Regulatory Commission, and the Federal Emergency Management Agency (FEMA) to develop a coordinated and cooperative effort among states, Indian Nations, and Federal agencies which have regulatory and enforcement responsibilities for assuring the safe transportation of radioactive materials. During FY 87, workshops were held in Boise, Idaho; Santa Fe, New Mexico; Cedar Rapids, Iowa; Charlotte, North Carolina; and Boston, Massachusetts. The agencies share information regarding nuclear materials, emergency preparedness, response to incidents, inspection, enforcement, and

notifications of shipments. We expect to continue active support of and participation in public forums directed at resolving the public's concerns for the safe transport of radioactive materials.

Training

A particularly important aspect of the national program to assure safety and uniformity in the transportation of hazardous materials is assuring Federal and state personnel who enforce the hazardous materials regulations are adequately trained.

RSPA's Transportation Safety Institute (TSI) in Oklahoma City designs and conducts training programs. TSI has developed a self-study course for state enforcement specialists. It is used to prepare students for TSI resident enforcement training thereby reducing the amount of time spent away from duty locations. In FY 88, we plan to spend $455,000 to provide these training services.

We have taken steps to implement recommendations from COHMED participants including development of self-contained training packages for inspection, enforcement, and emergency response awareness. Train-the-Trainer courses will be developed to assist the state trainers in the use of these training packages.

RSPA is working on a broad range of emergency response training issues with other Federal agencies, including FEMA, OSHA, HHS, and

EPA, to: (a) clarify roles and responsibilities regarding emergency response; (b) increase coordination and communication; and (c) assess the emergency response needs of state and local jurisdictions.

There is a national strategy/framework for emergency response training being developed by the National Response Team Training Committee (NRT/TC) for 1988. The strategy is to build upon existing resources. The SARA Title III funding of $5 million for each of fiscal years 1987-1990 will assist states and local jurisdictions to support improved emergency planning, preparedness, mitigation, response, and recovery capabilities. Some of the following improvements are under consideration for FY 88:

--Dissemination of hazardous materials response training information through a variety of systems such as the DOT/FEMA Hazardous Materials Information Exchange (HMIX) and the current RSPA program for distribution of hazardous materials information and guidance packages.

--More specific identification of training needs and promotion of uniform training among the states.

--Development of centrally prepared training packages to ensure greater uniformity and quality of training.

--Utilization of more effective training methods, such as

simulations (exercises), videotapes, and packaged self-study courses. These methods will be necessary for wide dissemination of basic awareness and planning guidance information.

While new initiatives have been introduced, we believe there is much more to be accomplished. We believe that serious consideration should be given to the assurance of a national network of specialized

emergency response teams. Such teams can supplement the resources of local fire and police departments by providing the sophisticated chemical handling equipment, and personnel trained in its use, needed to deal with incidents involving the myriad of chemicals moving in commerce.

Data Collection, Analysis, and Information Dissemination

RSPA has responsibility for collecting, analyzing, and disseminating data. This is important to our regulatory and enforcement program as well as useful to state enforcement personnel and state and local emergency response planners.

We are building on four significant projects that were undertaken in FY 1987. One such project is a comprehensive review by the Transportation Systems Center (TSC) of our data collection program. TSC will contact a variety of our constituents, including the states,

review our current program, evaluate the current use of the data and make recommendations as to any further information we should be collecting and how we can make better use of existing data.

Second, we are considering applying our Federal regulations to a broader range of intrastate shippers and carriers. This would significantly increase the amount of data we collect. As previously stated, we have published an ANPRM on this subject.

Third, in FY 1987, RSPA completed an NPRM for a new DOT incident report form. The purpose of the new form is to provide more meaningful and comprehensive data, especially in regard to the causes of incidents and the failures of packaging. In addition, the use of the new form would enable RSPA to process the data more accurately and more quickly.

Fourth, we are currently considering whether additional information is needed concerning the hazardous materials offered for transportation by major shippers throughout the country. At minimal cost, such information could enable us to improve our understanding of flow patterns, from the relatively small number of entities who account for the greatest volume of traffic.

Constituent Support and Coordination

Another important part of our hazardous materials transportation program is our contact and interaction with other Federal agencies,

members of the regulated community, concerned public citizens, and the state and local government officials responsible for implementing related government policy at a regional level.

To carry out our coordination and constituent support responsibilities, RSPA created the Federal/State and Private Sector Initiatives Division to provide communication and coordination between RSPA and other elements of the Department, other Federal agencies, state and local governmental agencies and private sector groups. This group also supports state and local governmental officials in their enforcement and emergency response activities.

We have also improved intermodal coordination in the Department through establishment of a DOT Intermodal Hazardous Materials Coordination Committee made up of representatives from each of the modal administrations--FHWA, FAA, USCG, FRA, and RSPA, which is the chair. We meet bimonthly to review rules, research and other issues affecting hazardous materials transportation. Our enforcement attorneys meet during alternate months to coordinate the legal aspects of HMTA enforcement.

We are also working to improve our communication and coordination with other agencies. As an active member of the National Response Team (NRT), RSPA works with the 14 members in all areas of hazardous materials.

We have recently executed a Memorandum of Understanding with FEMA to identify emergency preparedness roles and responsibilities involving the transportation of hazardous materials and to establish joint program efforts in planning, training, and information development, dissemination, and exchange.

RSPA also serves within the DOT as the single point of contact between DOD and DOT in matters involving the transportation of hazardous materials. We have been meeting with DOD on clarification and resolution of issues involving DOT audits of all Military Traffic Management Command (MTMC) carriers, DOD problems with the proposed U.S. adoption of the new U.N. performance-oriented packaging and marking requirements, and emergency response procedures involving shipments of military explosives and radioactive materials. In addition, FHWA works directly with DOD on safety fitness determinations for motor carriers.

Emergency Response

We cannot eliminate all accidents involving the release of hazardous materials. In the event of such an accident, it is vital that efforts to lessen the hazards be initiated as rapidly as possible.

For this prompt response to be possible, a number of actions must be taken, including: (1) notification of appropriate Federal, state and local government agencies that a hazardous materials incident has

occurred; (2) proper identification of the physical or chemical properties of the released material; (3) determination of the most effective way to safeguard life, property, and facilities from the associated hazards; and (4) use of the most effective methods to clean up the spill and to restore normal conditions. State and local jurisdictions play a key role in responding to transportation emergencies because of the infinite number of possible accident sites, the wide range of materials which may be involved, and the critical need for immediate action. These activities require a Federal, state, local and private sector partnership. No one can do it alone.

RSPA has worked in the last few years to increase the clarification of roles, to increase coordination and communication and to assess the needs. RSPA has jointly sponsored workshops with FEMA and EPA on emergency response. We have joined the National Response Team and sought to increase the coordination and attention given to emergency response to hazardous materials transporation accidents. As we mentioned previously, RSPA and FEMA have completed a Memorandum of Understanding to more clearly define our roles. FEMA and RSPA have completed a study of Emergency Response Planning and Training. RSPA and FEMA have established an Information Clearinghouse to provide emergency response planning and training information to state and local planners. We are working with the International Bridge, Tunnel and Turnpike Authority to survey the flow of hazardous materials on their members' systems.

These are all new initiatives RSPA has undertaken in the last two years to improve the Federal role in hazardous materials transportation emergency response.

In addition, we are continuing a number of other initiatives which have provided valuable assistance to state and local responders. For example, this year we are republishing the Hazardous Materials Emergency Response Guidebook (ERG). The ERG is designed to meet the needs of various government agencies directly involved in responding to accidental releases of hazardous materials during transportation. It has been updated every 3 years to reflect changing information and technology. Under a mandatory identification system, four-digit numbers identifying which hazardous materials are being transported must be shown on orange display panels or on the placards that are required on tank trucks, rail cars, and portable tanks carried on vehicles. The ERG enables persons who are unfamiliar with chemical names to identify a hazardous material through the use of the four-digit number, and to determine what safety measures should be taken immediately in the event of an accidental release. It is intended for use by firefighters, police, and other emergency services personnel as a guide for initial actions to be taken to protect themselves and the public when they are called on to handle incidents involving any of these hazardous materials that are transported in the United States. RSPA has distributed more than 1.5 million copies of the Guidebook.

An important, RSPA-supported mechanism for assisting government agencies in providing emergency services when hazardous materials incidents occur is the Coast Guard-operated National Response Center (NRC). The NRC, which was established in August 1974, provides a communication network which can notify appropriate state and local officials of a hazardous materials incident.

The NRC is data-linked to CHEMTREC, a service of the Chemical Manufacturers Association, which provides a centralized source of chemical emergency response information and assistance on a round-the-clock basis. CHEMTREC does not operate under a legislative mandate. Rather, it is a chemical industry-supported system for providing assistance to anyone requesting help during an emergency arising from the accidental release of chemicals. CHEMTREC maintains a data base containing specific information concerning more than 18,000 chemicals. Both the NRC and CHEMTREC response centers provide toll-free, 24-hour service to emergency services personnel who are prepared to respond to hazardous materials incidents.

RSPA has encouraged the industry over the last few years to sponsor more initiatives in this area. The list of industry's accomplishments is impressive. These industry programs can help to reduce the Federal funding necessary if the programs are developed and coordinated with the Federal, state, and local planners and the programs are then made accessible to those in need. Among several

successful industry programs are training videos; a toll-free number providing planning information to planners and consumers; the Community Awareness for Emergency Response Program; and publication of a pocket-sized Emergency Response Guidebook, to list just a few. One additional program which holds great promise is a program referred to as CHEMNET, a mutual aid network between chemical shippers and for-hire contractors that will provide advice and assistance at the scene of major chemical distribution incidents.

The effectiveness of our program is evidenced by our good safety record for the transportation of hazardous materials. Of the approximately 250,000 shipments a day in 1986, there were 16 fatalities and 315 injuries. While this is a higher number of fatalities than occurred in the previous year, it is very low when one considers the large number of hazardous materials shipments that take place daily.

Legislative Proposal

To address many of the issues I have discussed and to improve the operation and administration of the HMTA, we have proposed that Congress enact legislation making significant changes to that law. Passage of our major legislative proposal would constitute the first substantive change of the HMTA since it was enacted in 1974. Our bill would significantly enhance safety and improve the regulation and enforcement of hazardous materials transportation by:

- Requiring motor carriers of certain extremely hazardous materials such as the chemicals toxic by inhalation, major explosives, and high-level nuclear spent fuel to be" permitted" by DOT to transport such substances. This is a very limited permitting program which would apply to about 1,000 carriers.

- Promoting uniformity by clarifying the Federal and state responsibilities for highway routing and other aspects of the regulation of hazardous materials transportation.

- Requiring those seeking a determination from DOT on preemption (either state or local governments or industry) to complete that proceeding before going to court. Further, the court's review would be limited to whether the Secretary's action was arbitrary, capricious or an abuse of discretion.

- Requiring DOT to extend its regulations to all intrastate hazardous materials transportation (e.g., gasoline, home heating oil and explosives).

- Assuring that the Department can impose civil enforcement sanctions for the negligent

transportation of hazardous materials by removing the requirement that the Department prove that the violative act was performed "knowingly".

RSPA through its Office of Hazardous Materials Transportation has made progress in addressing shortcomings in our program. Further, I believe our budget and program for next year will allow us to make additional improvements. We would like very much to have your support and welcome your advice.

Thank you and I will be happy to answer your questions.